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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522.899

02/01/2005

Issei Oura

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08/30/2006

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EXAMINER

DANG, HUNG XUAN

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,899	<b>Applicant(s)</b> OURA ET AL.	
	<b>Examiner</b> Hung X. Dang	<b>Art Unit</b> 2873	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 2-7 and 11-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

### Information Disclosure Statement

1. The prior art documents submitted by applicant in the Information disclosure Statements filed on 2/1/05 and 2/17/06 have all been considered and made of record (noted attached copy of form PTO-1449).

It is noted that the Japanese and French patents have been considered to the best of the ability of the examiner without benefit of translation.

### Drawing Objection

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, **a threaded shaft threaded into said spherical shaft until its tip protrudes into said cutout, thereby restricting the rotational angle of the shaft relative to the spherical member as recited in claim 10** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### **Claim Objection**

3. Claim 8 is objected to because of the following informalities: in claim 8, line 2, "comprising a a clamp potion" should be change --comprising a clamp portion--. Appropriate correction is required.

### **Claims Rejection Under 35 U.S.C. 112**

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, line 4, "said spherical shaft" has no antecedent basis.

### Claims Rejection Under 35 USC - 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Claude** (France Patent No. 2,690,760).

Figure 3 of Claude showing that a front frame 12, a temple 13, a spherical member 17 received in the clamp portion 28, a shaft 15 fixed to a front end of the temple 13 and rotatably received in the spherical member 17, whereby the temple 13 is pivotable between its folded and unfolded position.

### Claims Rejection Under 35 USC - 102

6. Claims 1, 8 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Simioni** (U.S. 5,596,789).

Simioni discloses hinge for eyeglass comprising a front frame 311, a temple 303, a spherical member 334 received in the clamp portion 309 comprising a front clamp 333a protruding outward from the front frame 311 and a rear clamp 335, a shaft 306 fixed to a front end of the temple 303 and rotatably received in the spherical member 305, whereby the temple 303 is pivotable between its folded and unfolded position (see figure 12 and column 4, lines 51-67 and column 4, lines 1-6.)

Art Unit: 2873

**Allowable Subject Matter**

7. Claims 2-7 and 11-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Art Pertinent**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Hopkins (3,476,466) forwardly folding eyeglass temples having ball and socket hinges which is considered pertinent to the claimed invention.

9. Any inquiry concerning this communication should be directed to Examiner Dang at telephone number (571) 272-2326.

8/06

A handwritten signature in black ink, appearing to read 'Hung Dang', with a stylized, cursive script.

HUNG DANG

PRIMARY EXAMINER

TC 2800